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MANDELKER & KASS, P.C.
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MIN YU XIAO,

Docket No. 07 Civ 9430 (RS)

Plaintiff,

ANSWER

-against-

LUCKY CHATHAM REALTY CORP. and
RICHARD T. WONG,

Defendants.

-----x

Defendants, by their attorneys, KANTOR, DAVIDOFF, WOLFE, MANDELKER & KASS, P.C., as and for their answer to the complaint herein, allege as follows:

1. Defendants neither admit nor deny the allegations contained in paragraphs 1, 2, 3, and 4 of the complaint, as said allegations contained legal conclusions to which a response is not required, except deny the claims or suggestions in paragraphs 1 and 2 deny that Defendants owe back wages to plaintiff.

2. Defendants deny the allegations contained in paragraph 5 of the complaint, except admit that defendant Lucky Chatham is a domestic corporation and that defendant Lucky Chatham leases real estate and has its place of business in the City, County and State of New York.

3. Defendants deny the allegations contained in paragraph 6 of the complaint, except admit that defendant Wong is a natural person, who resides in the City, County and State of New York, and was and is the principal of Lucky Chatham.

4. Defendants deny knowledge or information sufficient to form a belief with respect to the truth of the allegations contained in paragraph 7 of the complaint, except admit that Plaintiff is a natural person, and that defendant Lucky Chatham employed plaintiff on a part time basis, between April 1, 2004 and July 20, 2005, but deny that plaintiff was employed by defendant Wong and, upon information and belief deny that plaintiff was employed by a predecessor of defendant Lucky Chatham.

5. Defendants deny the allegations contained in paragraph 8, 9 10, 11, 17 18, 19, 21 23, 25, 27, 28, 30, 32, 34 and 35 of the complaint.

6. Defendants admit the allegations contained in paragraph 12 of the complaint, except deny that defendant Lucky Chatham and Lucky Mott Realty LLC are owned (in whole or in principal part) by the same person or persons.

7. With respect to paragraphs 16, 20, 22, 24, 26, 29, 31 and 33 of the complaint, Defendants repeat and reallege the allegations set forth above, as if fully set forth herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. The complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. Plaintiff's claims are barred in whole or in part by the statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. As a result of the failure to state a claim under the Fair Labor Standards Act, there are no federal claims to which plaintiff's claims for relief under State law can be appended, and the Court should abstain from hearing any such claims.

WHEREFORE, Defendants respectfully demand judgment in their favor and against plaintiff, dismissing the complaint, awarding Defendants their costs and disbursements incurred herein, and granting such other and further relief as the Court may deem just and proper.

Dated: New York, New York
December 19, 2007

KANTOR, DAVIDOFF, WOLFE,
MANDELKER & KASS, P.C.

By: 
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